

**PUBLIC HEALTH
APPEAL BOARD
ANNUAL REPORT
1999**

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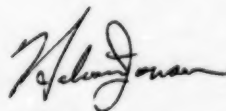
January 2000

The Honourable Ken Kowalski, M.L.A.
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Speaker:

I have the honour to present the Annual Report of the Public Health Appeal Board for the year February 3, 1999 to December 31, 1999.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Halvar C. Jonson', written in a cursive style.

Halvar C. Jonson
Minister

January 2000

The Honourable Halvar C. Jonson
Minister of Health & Wellness
228 Legislature Building
Edmonton, Alberta
T5K 2B6

Minister:

I have the honour and privilege to present the Annual Report of the Public Health Appeal Board for the year February 3, 1999 to December 31, 1999.

Respectfully submitted,

Hilton R. Pharis

Hilton R. Pharis, Chairman
Public Health Appeal Board

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Public Health Appeal Board Members

Hilton R. Pharis (Lundbreck)

Chair

Appointed chair February 03, 1999. Past vice-chair of the Public Health Advisory and Appeal Board. Mr. Pharis is a cattle rancher and past chairman of the Oldman River Dam Environmental Advisory Committee. He was elected to the council of the Municipal District of Pincher Creek from 1961 to 1989, and is past chairman of the Oldman River Regional Planning Commission and the Health Unit Association of Alberta.

Louise Loughheed (St. Albert)

Vice-chair

Appointed vice-chair February 03, 1999. Presently contracts secretarial/computer work out of her home for two consulting management firms. A member of the Aspen Regional Health Authority #11 from 1994 to 1995. Ms. Loughheed was in a supervisory position at Athabasca University Library in Athabasca for nine years before moving to St. Albert.

Marvie Kenny (Oyen)

Alternate Vice-chair

Appointed alternate vice-chair April 08, 1999. Ms. Kenny is a dental hygienist and partner on a grain farming operation. She is a volunteer for various community organizations.

Karen Egge (Woking)

Member

Ms. Egge is the executive director of the Northwest Regional Learning Consortium and partner in a mixed farm operation in northern Alberta. She has provided extensive community service through school trusteeship and College Board leadership.

William Love (Calgary)

Member

Mr. Love is an independent insurance broker and consultant. He is the chairman of the Board of Examiners for Certified Dental Mechanics and is a willing volunteer for church and community organizations.

Margaret Niehaus - Administrative Assistant/Coordinator

Background

The Public Health Appeal Board (PHAB) was established on February 03, 1999 under the provisions of the Alberta Public Health Act as amended. The new Public Health Appeal Board replaced the former Public Health Advisory and Appeal Board, which was established in 1985.

PHAB is subject to the general rules of administrative law and natural justice as they apply to quasi-judicial tribunals. To that end, PHAB has retained Donald R. Cranston, Q.C., of the law firm Bennett Jones to provide independent legal counsel.

Duties

The Public Health Appeal Board shall hear appeals of decisions of a regional health authority as defined in the Public Health Act. A person who is directly affected by a decision of a regional health authority and considers himself or herself aggrieved by the decision may appeal the decision to PHAB. The Board may also engage the services of persons having special technical, professional or other knowledge to assist it in the hearing of appeals. Once the appeal is heard the Board may confirm, reverse or vary the decision of the regional health authority and shall give written notice of its decision to the appellant and the regional health authority.

To carry out these duties, PHAB comprises of five members with varied professional backgrounds with representation across the province of Alberta.

Locations of Hearings

Slave Lake
April 19, 1999

Edmonton
October 01, 1999
October 14, 1999

Three Hills
August 26, 1999



Appeal Activities and Summaries

The following is a summary of all appeals or applications that were received and/or heard by the Public Health Appeal Board from February 03, 1999 to December 31, 1999.

01/99

Keeweenook Lakes Regional Health Authority #15 and Robin Guild of Wabasca, Alberta

Appeal of an Order of an Executive Officer of the Keeweenook Lakes Regional Health Authority #15 under Section 2(1) of the Nuisance and General Sanitation Regulation pursuant to the *Public Health Act*. The Order required that Mr. Guild cease and desist from discharging sewage wastes onto the ground surface and to cause all sewage wastes emanating from the said properties to be removed to an approved sewage treatment facility, or otherwise dealt with to the satisfaction of the said Executive Officer.

Hearing held April 19, 1999

PHAB referred the matter back to the Regional Health Authority with the following directions:

1. The Appellant shall continue to have his sewage pumped and removed to an approved sewage treatment facility or otherwise dealt with to the satisfaction of an Executive Officer, until this matter is dealt with by the Regional Health Authority as described below;
2. To address the underlying public health issues, the Regional Health Authority shall conduct an investigation to determine the extent of the public health issue, namely sewage discharge, that gave rise to the issuance of this Order. That investigation shall be completed within 90 days from the date of this decision. The Appellant brought to the attention of this Board that this method of disposal appears to be prevalent in this and nearby subdivisions. The Appellant fairly pointed out that changing his system alone likely does not substantially respond to the public health issue while his neighbours continue with the same disposal methods;
3. Upon completion of that investigation and within the 90 day period described in direction 2, the Regional Health Authority must determine a plan that fairly and consistently addresses this issue. That plan must be provided to the Appellant and any other affected persons. The plan must include the actions the Regional Health Authority considers appropriate as a result of its investigation.

02/99

Capital Health Authority and D.A.J. Installations (Henri Lord) of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act* declaring the housing premises unfit for human habitation.

The appellant withdrew his appeal as the Order was rescinded.

03/99

Headwaters Health Authority and Pinewoods Motel (Patrick and Roderick O'Connor) of Banff, Alberta

Appeal of an Order of an Executive Officer of Headwaters Health Authority under Section 2(1) of the Nuisance and General Sanitation Regulation pursuant to the *Public Health Act*, requiring the owner to demolish the premises and remove all debris and demolition material by a certain date.

Discussions occurred between Headwaters Health Authority and the Appellant. The Executive Officer issued an amended Order to extend the time of demolition or to secure the building acceptable to the Headwaters Health Authority. The appellant complied and withdrew the appeal.

04/99

Regional Health Authority 5 and Lynn Gustafson of Three Hills, Alberta

Appeal of an Order of an Executive Officer of Regional Health Authority 5 under Section 72 of the *Public Health Act* requiring the owner of an animal farm do the following by August 31, 1999:

1. Discontinue the practice of encouraging or allowing visitors to have direct contact with or handle:
 - Carnivores; or
 - Animals whose species are recognized to demonstrate aggressive behavior; or
 - Animals that, in captivity, demonstrate aggressive behavior;

2. Discontinue the practice of encouraging or allowing visitors to hand feed animals;
3. Direct warning signs on enclosures of animals that pose scratching, biting or injury hazard. The signs must be:
 - Strategically placed, in sufficient numbers, on each enclosure and sufficiently large enough to be easily visible; and
 - Of a shape, colour, print and size so as to be distinct from other informational signs.

The Order also required that the Appellant perform the following action by December 31, 1999:

4. Establish physical barriers between the visitors and the enclosures of animals that may pose a scratching, biting or injury hazard. The barriers must be of sufficient material or sufficient separation distance so as to prevent direct contact between the visitors and the animals.

Hearing held August 26, 1999

PHAB referred the matter back to the Regional Health Authority 5 with the following directions:

1. The word "carnivores" is too broad, as is the word "species". The age of animals is an important consideration. These items need to be addressed more specifically.

Resolution of this matter must address supervision requirements, which of course will consider the species of the animal, its age, and individual characteristics. The biting incidents appear to have involved unsupervised children, or adults acting in perhaps a careless manner. There apparently has already been an agreement that there should be no direct contact with primates. The Gazoo Animal Farm has already taken steps to stop that contact. Many of the biting incidents involved primates.

It would be wise to create a list of the species at the Gazoo Animal Farm, and for the Regional Health Authority 5 and the Appellant to review that list establishing appropriate supervision standards, standards for visitor feeding and access to each species, which will include consideration of age of the animals. In setting those standards it must be recognized that the individual animals may have more or less dangerous characteristics that should be considered.

An adequate training program must be in place for supervisory staff. The supervisory staff must be clearly identified while working.

2. The second paragraph of the Order is too broad. It would, for example, preclude feeding a baby duck. In some cases, hand feeding animals does not pose the kind of risk contemplated by the *Public Health Act*, and may indeed be beneficial and often therapeutic. The standards required under #1 above will create reasonable restrictions for hand feeding animals.

3. There must be appropriate signage as set out by paragraph 3 of the August 6, 1999 Order. It should go further, and include reference to a need for consistent signage. For example, we were told that in some places in the animal farm there may be a warning sign, with another sign saying "I Love Treats" posted right beside it. That creates inconsistent messages to the public and must be avoided. There should be a large sign at the entrance gate providing information about risks and possible dangers to the public. All of the considerations for the signage must be developed between the Appellant and the Regional Health Authority 5, and must be to the satisfaction of the Regional Health Authority 5.
4. Condition 4 is not sufficiently clear and is too broad. It could be said that any animal has the potential to bite or scratch a person. This matter is referred to the Regional Health Authority 5 as well to have further discussions with the Appellant with a view to finding an acceptable requirement for barriers.

05/99

Capital Health Authority and Frank Cosentino of Edmonton, Alberta

Appeal of two Orders of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act*, declaring the housing premises unfit for human habitation.

Hearing held October 01, 1999

PHAB upheld the Orders issued by the Executive Officer of the Capital Health Authority. It is open for Mr. Cosentino to work with the Capital Health Authority and satisfy it that he has brought the conditions identified in the Orders into a state of good repair, and thereby allow occupancy of these premises again.

06/99

Capital Health Authority and Ronald Brandenburg of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act*, declaring the housing premises unfit for human habitation.

Discussions occurred between the Capital Health Authority, the Appellant and the owner of the premises. The Appellant stated that he was repairing the condemned premises and at the same time was sleeping there. When the Capital Health Authority informed the Appellant that the owner of the premises did not employ him, the Appellant withdrew his appeal.

07/99

Aspen Regional Health Authority #11 and Sean Murphy of Spruce Grove, Alberta

Appeal of an Order of an Executive Officer of the Aspen Regional Health Authority #11 under Section 72 of the *Public Health Act*, requiring the owner to repair a number of nuisance conditions by a specified date.

Hearing held October 14, 1999

PHAB varied the Order issued by the Executive Officer of the Aspen Regional Health Authority #11 only to the extent that repairs are to be completed by November 01, 1999. Mr. Murphy was encouraged to communicate with the Aspen Regional Health Authority #11 to ensure the work will be done to their satisfaction.

08/99

Mistahia Regional Health Authority and Anne Sorenson of Wembley, Alberta

Appeal of an Order of an Executive Officer of the Mistahia Regional Health Authority under Section 72 of the *Public Health Act*, declaring the housing premises unfit for human habitation.

Hearing to be held January 19, 2000